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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

DENISE MUSU-HAWA HOFFMAN, Plaintiff and Respondent, v. ZAKARIA M. SHAHIN, Defendant and Appellant; SAN FRANCISCO COUNTY DEPARTMENT OF CHILD SUPPORT SERVICES, Intervenor and Respondent.	A123739 (San Francisco County Super. Ct. No. 342899)

I. INTRODUCTION

Zakaria Shahin, appearing in propria persona,[1] appeals from the trial court's order of November 20, 2008, confirming the registration of an out-of-state order from Tennessee. Appellant contends the registration was improper because an administrative order from the Tennessee court was not properly served on him. We will affirm.

II. FACTUAL AND PROCEDURAL BACKGROUND

Respondent Denise Musu-Hawa Hoffman obtained a final decree of divorce from appellant on December 16, 1993, in Tennessee, which required appellant to pay child

[1] It appears that appellant was unrepresented by counsel during all proceedings in Tennessee and the proceedings thus far in California.

support for a minor child[2] in the amount of $528.78 per month (hereafter, 1993 order). Appellant filed a motion for relief[3] from the 1993 order in the Tennessee court. The motion was denied in June 1994.

In April 2008,[4] respondent filed a request for registration of the 1993 order for enforcement of the child support provisions in San Francisco Superior Court.[5] On April 22, appellant requested a hearing to contest the registration. The San Francisco County Department of Child Support Services (Department) intervened in the action on May 13, as the agency responsible for enforcement of the out-of-state child support order after its confirmation.

The hearing was originally set for May 29, but was continued to September 18, and then again to November 20. The continuances were granted because appellant informed the court that he was contesting paternity of Yasameen in Tennessee. On May 29, the trial court ordered a temporary stay of enforcement activity in California while the Tennessee matter was pending.

On September 18, the Department's attorney informed appellant that the hearing in Tennessee was set for November 12.

At the outset of the hearing in San Francisco on November 20, the attorney for the Department produced an order from the Fourth Circuit Court for Knox County, Tennessee, which was dated November 19 (the November 19 administrative order), and which followed the hearing on November 12. In the order, the Tennessee court explained that the matter pending before it was an administrative review requested by appellant to contest "a forthcoming administrative action from the state," i.e., the interception of any

[2] The minor child was identified in the November 19, 2008 order of the Tennessee court as Yasameen Hoffman-Shahin, whose date of birth was March 16, 1989.

[3] The record does not specify the grounds for the motion or the relief sought.

[4] All further dates refer to 2008, except as otherwise specified.

[5] There is no statue of limitations for collection of child support arrearages either under former Family Code section 4502 or the present version of Family Code section 291.

income tax refund to apply toward unpaid child support. The Tennessee court denied appellant's motion for relief from administrative interception, noting that paternity was determined in the 1993 divorce action, and the motion appellant filed seeking relief from the 1993 order was denied on June 23, 1994.

Neither appellant nor the California trial court had seen the November 19 administrative order prior to the November 20 hearing. After appellant and the court reviewed the one-page order in court, appellant indicated that he still wished to contest paternity of Yasameen. The court explained that paternity had been determined in the 1993 divorce proceeding, and that his opportunity to contest paternity and to request genetic testing had existed in that proceeding. The court noted that appellant had filed a motion seeking relief from the 1993 order, which motion was denied. The court advised appellant that, upon denial of that motion, appellant's proper remedy was an appeal from that denial. The court also advised that it was required to recognize valid judgments from sister states and concluded that the 1993 order was valid and enforceable unless it was stayed by a Tennessee appellate court.

Appellant then stated that he wanted to challenge registration on the grounds that the child support case was "fraudulent," and he requested more time to gather evidence, including genetic testing. The court denied the request for more time both because appellant had lost the right to challenge paternity and because appellant had had plenty of time since the matter had been pending since May. The court advised appellant that he could continue to contest paternity in Tennessee, but the court saw no legal reason not to register the 1993 order in California. Further, the court advised appellant that if the underlying determination of paternity were set aside in Tennessee, then enforcement of the order in California would stop.

The trial court confirmed registration of the 1993 order for enforcement in California, but stayed enforcement of the order until January 1, 2009, to give appellant time to consult with an attorney regarding an appeal. Counsel for the Department advised the court that the current arrears under the support order was approximately $86,000, with $716 in interest accruing each month at an interest rate of 10 percent. The

court ordered appellant to begin paying his child support arrears at the rate of $50 per month, beginning January 1, 2009.

On December 18, appellant filed a timely notice of appeal from the trial court's order of November 20.

III. DISCUSSION

Appellant raises many complaints with the proceedings in both Tennessee and California. The crux of his arguments is that he is not the father of the child identified in the 1993 divorce decree. He contends that genetic paternity testing should be administered and, upon proof that he is not biologically related to the child, the child support obligations should be vacated. The scope of this appeal, however, is limited to the single issue of whether the trial court erred in confirming the registration of the 1993 order.

A. *The Uniform Interstate Family Support Act*

"The Uniform Interstate Family Support Act (UIFSA), [Family Code,] section 4900 et seq., which has been adopted by all 50 states, 'governs, inter alia, the procedures for establishing, enforcing and modifying child support orders in cases in which more than one state is involved.' (*In re Marriage of Crosby & Grooms* (2004) 116 Cal.App.4th 201, 206.) Together with the Federal Full Faith and Credit for Child Support Orders Act (28 U.S.C. § 1738B), 'the UIFSA ensures that in every case only one state exercises jurisdiction over child support at any given time.' (*In re Marriage of Crosby & Grooms*, *supra*, at p. 206.)" (*de Leon v. Jenkins* (2006) 143 Cal.App.4th 118, 124.)

Under the UIFSA as enacted in California, "[a] support order . . . issued by a tribunal of another state may be registered in this state for enforcement." (Fam. Code, § 4950.)[6] Once registered, the support order "is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state." (§ 4952, subd. (b).) The nonregistering party is entitled to notice and may request "a hearing to contest the validity or enforcement of the registered order . . . ." (§ 4954, subd. (b)(2).)

[6] All further unspecified statutory references are to the Family Code.

If the nonregistering party does not contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law. (§ 4955, subd. (b).)

A party contesting the validity or enforcement of a registered order, or seeking to vacate the registration, has the burden of proving one or more of seven "narrowly defined defenses to registration" enumerated by the statute. (UIFSA Com., 29F West's Ann. Fam. Code, foll. § 4956, p. 559.) Section 4956, subdivision (a), lists the permissible grounds for objection to the registration of an out-of-state support order: "(1) The issuing tribunal lacked personal jurisdiction over the contesting party. [¶] (2) The order was obtained by fraud. [¶] (3) The order has been vacated, suspended, or modified by a later order. [¶] (4) The issuing tribunal has stayed the order pending appeal. [¶] (5) There is a defense under the law of this state to the remedy sought. [¶] (6) Full or partial payment has been made. [¶] (7) The statute of limitations under Section 4953 precludes enforcement of some or all of the arrearages." (§4956, subd. (a).) "Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration." (§ 4957.)

B. *Analysis*

At the beginning of the November 20 hearing, the Department's attorney produced the November 19 administrative order. Copies were provided to the court and appellant, and the court reviewed the order. Although the Department's attorney did not expressly request that the court take judicial notice of the order, it is clear that the court exercised its discretion to do so. (Evid. Code, § 452, subd. (a) [court has discretion to take judicial notice of the decisional law of any court in any state of the United States].) In addition, trial courts have discretion to consider any relevant evidence. (Evid. Code, § 351.)

The order was relevant to the proceedings because appellant had requested a stay pending the outcome of an appeal he had filed in Tennessee. Appellant contested registration in California of the 1993 order, declaring that: "This case should not be registered in California. This matter is still under appeal in the State of Tennessee as I contest paternity of the child of this action. Enforcement should be stayed pending

outcome of the Tennessee appeal." Accordingly, the trial court had continued the hearing from May 29 to September 18 , and then again to November 20.

The November 19 order was faxed to the Department (as evidenced by the facsimile machine print-out of the date and time (11/19/2008 16:12) at the bottom of the pages), and was served by mail on both appellant and respondent on the same day, November 19. It established, first, that the pending matter in Tennessee had been resolved and there was no longer any basis to stay the hearing in California. Second, the order established that appellant's substantive argument, paternity, had been resolved against him in the earlier divorce proceeding. The November 19 administrative order clarified that the Tennessee proceeding was an administrative matter regarding the potential interception of funds, "not a paternity action because paternity for the child at issue was confirmed in the divorce action. While [appellant] is now alleging he is not the child's biological father, the action before the court is a child support matter only."

In this appeal, appellant challenges the registration of the 1993 divorce decree on the basis that the service of the November 19 administrative order "did not meet the five days notification rule prior to a hearing."[7] In support of this contention, appellant provides no argument or discussion, but cites to Code of Civil Procedure section 1005, subdivision (b), Family Code section 215, and San Francisco Superior Court Local Rules, rule 11.7(A)(3). We discern no error by the trial court.

Appellant's authorities all pertain to the time for serving notice of motions and supporting papers. For motions requiring written notice, Code of Civil Procedure section 1005, subdivision (b), provides the time for filing and service of papers; the only reference to a five-day time period is the requirement that all reply papers be filed and served "at least five court days before the hearing." (Code Civ. Proc., § 1005, subd. (b).)

[7] Appellant makes clear in his reply brief, in response to some apparent confusion on respondent's part, that he is not arguing that he was not properly served with the notice of registration and supporting papers. Rather, he contends that he was not served with the November 19 administrative order sufficiently in advance of the November 20 hearing.

Family Code section 215 provides that, for certain judgments or permanent orders, no modification or subsequent order in the proceedings is valid unless "any prior notice otherwise required to be given to a party to the proceeding is served, in the same manner as the notice is otherwise permitted by law to be served, upon the party." (§ 215.) Rule 11.7(A)(3) of the San Francisco Superior Court Local Rules also pertains to the service of notice of written motions and provides the time for filing and serving responsive and reply pleadings, including the provision that reply pleadings must be filed and served no fewer than five court days prior to the hearing date.[8]

Appellant contends that the trial court erred in "admitting a pleading without five days service prior to a hearing." Appellant refers to a "five day notification rule," citing the statutes and local rule discussed above, and contending that service of the November 19 order did not comply with this requirement. We interpret appellant's argument to be that the November 19 administrative order was a reply pleading or the legal equivalent of a reply pleading which the Department was required to serve on him at least five days prior to the November 20 hearing. We disagree.

First, appellant did not raise this argument in the trial court and therefore has waived it. (*In re Marriage of Nelson* (2006) 139 Cal.App.4th 1546, 1558, quoting *People v. Saunders* (1993) 5 Cal.4th 580, 589-590)

Second, appellant provides no authority for treating the November 19 order as a reply pleading. Both parties and the trial court were awaiting the Tennessee court's decision because of its obvious bearing on the San Francisco proceeding. At the first hearing date, May 29, the trial court ordered a temporary stay of enforcement activity and

[8] Rule 11.7(A)(3) of the San Francisco Superior Court Local Rules provides: "An ORDER TO SHOW CAUSE OR NOTICE OF MOTION must be served on the opposing party pursuant to Code of Civil Procedure section 1005 unless an ORDER SHORTENING TIME has been obtained. A post-judgment ORDER TO SHOW CAUSE or NOTICE OF MOTION must be served pursuant to Family Code § 215. Responsive pleadings must be filed and served no less than nine court days prior to the hearing date. Reply pleadings must be filed and served no less than five court days prior to the hearing date."

ordered appellant to notify the Department of "any receipt of any information related to the Tennessee action." As it happened, the Department was the first party to receive "information related to the Tennessee action." This apparently was due to the method of transmission; on November 19, the Tennessee court faxed the order to the Department and mailed it to appellant. The Department provided that information, "hot off the press," to appellant and the court the next day, which happened to be the date of the continued hearing.

Finally, we also reject any contention by appellant that the trial court erred in not granting a continuance. Although appellant does not expressly raise this argument, it is implicit in his contention that the court abused its discretion in proceeding with the hearing on November 20. At the hearing, appellant argued for the first time that fraud was his basis for opposing registration. He requested more time to obtain counsel and to gather evidence, including genetic testing.[9] The trial court denied the request.

The decision to grant or deny a continuance is committed to the sound discretion of the trial court. Thus, "[r]eviewing courts must uphold a trial court's choice not to grant a continuance unless the court has abused its discretion in so doing." (*In re Marriage of Falcone & Fyke* (2008) 164 Cal.App.4th 814, 823.) Here, the trial court denied the continuance because appellant had had "plenty of time" to determine how to proceed in the case. The hearing had been continued twice since it was first set for May 29. The court explained: "I have held up the enforcement or the confirmation of registration until we got this order. . . . [¶] I now have the order. . . . [¶] I see no valid legal reason at this time why I should not confirm the registration of the order. It doesn't stop you from continuing your attempts to challenge in Tennessee that judgment." Moreover, the Tennessee court's denial of appellant's motion did not raise any new

[9] At the hearing, appellant also requested more time to read the November 19 administrative order. The trial court offered him one hour to read and consider the one-page order before it ruled on registration of the 1993 order. Appellant asked the court to proceed with the hearing rather than delaying for one hour, and the trial court did as he requested.

issues. If appellant wished to be represented by counsel and to present evidence in support of his request to vacate the registration of the child support order, it was incumbent upon him to make arrangements to appear with counsel and evidence *at the hearing*, in other words, prepared to proceed. The trial court did not abuse its discretion in denying another continuance.

IV. DISPOSITION

The order appealed from is affirmed.

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Haerle, J.

We concur:

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Kline, P.J.

_____
Lambden, J.